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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/881,411	06/14/2001	Brawnski Armstrong	11749-00006	8832
24573	7590	04/06/2006	EXAMINER	
BELL, BOYD & LLOYD, LLC PO BOX 1135 CHICAGO, IL 60690-1135			SALAD, ABDULLAHI ELMI	
			ART UNIT	PAPER NUMBER
			2157	
DATE MAILED: 04/06/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/881,411

Applicant(s)

AMSTRONG ET AL.

Examiner

Salad E. Abdullahi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-68 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-68 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response

1. Applicant's remarks filed on 1/8/2005 has been received and made of record
2. This application has been reviewed. Original claims 1-68 are pending. The rejection cited stated below.
3. The declaration under 37 C.F.R. 1.31 filed 9/8/2005 has been received and made of record.
3. The evidence submitted is insufficient to establish a conception of the invention prior to the effective date of the Ozzie reference. While conception is the mental part of the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisite means themselves and their interaction must also be comprehended. See *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897). In this case, claims 1-68 lack a correspondence or a mapping in reference to the declaration and other evidence provided. For example independent claim 1 recites a "system for structuring content within a message and transmitting the structured message over a computer network in a real time chat environment, comprising: a system administration computing system having a system management program with a real time chat interface for communicating over the computer network; and a second computing system having a network interface program with a real time chat interface for communicating over the computer network, wherein the network interface program accepts message content, establishes a real time chat interface with the system management program and interacts with the system management program to structure

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the content within the message and transmit the structured message over the computer network". Examiner asserts such claim language lacks support in the evidence submitted. Also, other claims lack support in the evidence submitted.

4. The evidence submitted also is insufficient to establish diligence from a date prior to the date of reduction to practice of the Ozzie reference to either a constructive reduction to practice or an actual reduction to practice.

What is meant by diligence is brought out in *Christie v. Seybold*, 1893 C.D. 515, 64 O.G. 1650 (6th Cir. 1893). In patent law, an inventor is either diligent at a given time or he is not diligent; there are no degrees of diligence. An applicant may be diligent within the meaning of the patent law when he or she is doing nothing, if his or her lack of activity is excused. Note, however, that the record must set forth an explanation or excuse for the inactivity; the USPTO or courts will not speculate on possible explanations for delay or inactivity. See *In re Nelson*, 420 F.2d 1079, 164 USPQ 458 (CCPA 1970). Diligence must be judged on the basis of the particular facts in each case. See MPEP § 2138.06 for a detailed discussion of the diligence requirement for proving prior invention. Under 37 CFR 1.131, the critical period in which diligence must be shown begins just prior to the effective date of the reference or activity and ends with the date of a reduction to practice, either actual or constructive (i.e., filing a United States patent application). Note, therefore, that only diligence before reduction to practice is a material consideration. The "lapse of time between the completion or reduction to practice of an invention and the filing of an application thereon" is not

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relevant to an affidavit or declaration under 37 CFR 1.131. See *Ex parte Merz*, 75 USPQ 296 (Bd. App. 1947).

An applicant must account for the entire period during which diligence is required. *Gould v. Schawlow*, 363 F.2d 908, 919, 150 USPQ 634, 643 (CCPA 1966) (Merely stating that there were no weeks or months that the invention was not worked on is not enough.); *In re Harry*, 333 F.2d 920, 923, 142 USPQ 164, 166 (CCPA 1964) (statement that the subject matter "was diligently reduced to practice" is not a showing but a mere pleading). A 2-day period lacking activity has been held to be fatal. *In re Mulder*, 716 F.2d 1542, 1545, 219 USPQ 189, 193 (Fed. Cir. 1983) (37 CFR 1.131 issue); *Fitzgerald v. Arbib*, 268 F.2d 763, 766, 122 USPQ 530, 532 (CCPA 1959) (Less than 1 month of inactivity during critical period. Efforts to exploit an invention commercially do not constitute diligence in reducing it to practice).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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5. Claims 1-17, 21, 23-26, 28-43, 47, 49-56, 59-65 and 68 are rejected under 35 U.S.C. 102(e) as being anticipated by Ozzie et al., U.S. Patent No. 6,640,241 [hereinafter Ozzie].

As per claim 1, Ozzie discloses a system for structuring content within a message and transmitting the structured message over a computer network in a real time chat environment, comprising:

- a system administration computing system having a system management program (collaborative system 300) with a real time chat interface for communicating over the computer network (see fig. 3 and col. 10, line 56 to col. 11, line 12); and
- a second computing system (client 306) having a network interface program (GUI) with a real time chat interface for communicating over the computer network, wherein the network interface program accepts message content, establishes a real time chat interface with the system management program and interacts with the system management program to structure the content within the message and transmit the structured message over the computer network (see fig. 3 and col. 10, line 55 to col. 12 and lines 31-43).

As per claim 2, Ozzie discloses the message content structuring and transmission system of claim 1, wherein the second computing system is an end user computing system and the network interface program is an end user interface program (see col. 10, line 55 to col. 12 and lines 31-43).

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As per claim 3, Ozzie disclose the message content structuring and transmission system of claim 2, wherein the end user interface program, based on configuration instructions, generates a structured message content input panel having message content fields for the end user to enter message content into (see col. 11, lines 13-20).

As per claim 4, Ozzie discloses the message content structuring and transmission system of claim 3, wherein the message content fields are generated dynamically based on the configuration instructions and data specific to the end user (see col. 14, lines 30-48).

As per claim 5, Ozzie discloses the message content structuring and transmission system of claim 4, wherein the specific end user data used to dynamically generate the message content fields is an end user identification code (see col. 14, lines 30-48).

As per claim 6, Ozzie discloses the message content structuring and transmission system of claim 4, wherein the specific end user data used to dynamically generate the message content fields is an end user location identifier (i.e. IP address)(see col. 18, lines 19-31).

As per claim 7, Ozzie discloses the message content structuring and transmission system of claim 4, wherein the specific end user data used to dynamically generate the message content fields is an identifier for the end user computing system)(see col. 18, lines 19-31).

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As per claim 8, Ozzie discloses the message content structuring and transmission system of claim 3, wherein: after message content to be structured is entered into the structured input panel message content fields, the end user interface program structures the message content for transmission over the computer network (see fig. 3 and col. 10, lines 56 to col. 11, line 12).

As per claim 9, Ozzie discloses the message content structuring and transmission system of claim 8, wherein data specific to the end user creating the message is associated with the structured message content for message creation identification purposes (see col. 18, lines 19-31 and col. 20, lines 1-8).

As per claims 10-15, Ozzie discloses the message content structuring and transmission system of claim 2, wherein the end user interface program generates a user interface having at least one real time chat channel (see col. 6, lines 36-44 and col. 12, line 62 to col. 13, line 8).

As per claims 16-17, Ozzie discloses the message content structuring and transmission system of claim 10, wherein the end user interface program allows a real time chat channel to be docked to the user interface (see fig. 2 and col. 10, lines 21-45).

As per claim 21, Ozzie discloses the message content structuring and transmission system of claim 10, wherein the real time chat channel includes at least one contextual

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chat message (see col. 6, lines 36-44 and col. 12, line 62 to col. 13, line 8).

As per claim 23, Ozzie discloses the message content structuring and transmission system of claim 2, wherein the end user interface program, upon receipt of a structured message, generates a structured message output panel to display the structured message content (see col. 6, lines 36-44 and col. 12, line 62 to col. 13, line 8).

As per claim 24, Ozzie discloses the message content structuring and transmission system of claim 1, further comprising a third computing (308 or 314) system having a network interface program with a real time chat interface for communicating over the computer network (see fig. 3, and col. 10, line 56 to col. 11, line 12).

As per claim 25, Ozzie discloses the message content structuring and transmission system of claim 24, wherein the second computing system transmits structured messages directly to the third computing system (see fig. 3, and col. 10, line 56 to col. 11, line 12).

As per claim 26 Ozzie discloses the message content structuring and transmission system of claim 1, wherein the second computing system is an application computing system having an application program and the network interface program is a network application management program (see fig. 3, and col. 10, line 56 to col. 11, line 12).

As per claim 28-51, the claims include analogous to features in claims 1-25, thus claims 28-51 are same rational as claims 1-25.

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As per claims 52, 60 and 61 Ozzie discloses a method for structuring message content and transmitting the structured message content over a computer network in a real time chat environment, comprising:

providing a system administration computing system having a system management program with a real time chat interface for communicating over the computer network(see fig. 4 and col. 11, lines 22-67);

providing message content to the computer network (see fig. 4 and col. 11, lines 22-67) structuring the content within the message (see fig. 3 and col. 10, line 55 to col. 12 and lines 31-43);

establishing a real time chat interface with the system administration computing system (see fig. 3 and col. 10, line 55 to col. 12 and lines 31-43);and

transmitting the structured message to the system management program (see fig. 3 and col. 10, line 55 to col. 12 and lines 31-43).

As per claim 53, Ozzie discloses the message content structuring and transmission method of claim 52, further comprising generating a structured message content input panel having message content fields for acceptance of message content (see fig. 3 and col. 10, line 55 to col. 12 and lines 31-43)

As per claim 54, Ozzie discloses the message content structuring and transmission method of claim 52, further comprising generating a user interface having at least one real time chat channel which includes at least one contextual chat message (see fig. 4 and col. 11, lines 22-67).

As per claim 55-56, Ozzie discloses the message content structuring and transmission method of claim 54, further comprising docking the real time chat channel to the user interface (see fig. 2 and col. 10, lines 21-45).

As per claim 59, Ozzie discloses the message content structuring and transmission method of claim 52, further comprising generating a structured message output panel to display received structured message content (see fig. 4 and col. 11, lines 22-67);

As per claim 62, Ozzie discloses the method executed by the computer-executable instructions of claim 61, further comprising generating a structured message content input panel having message content fields for acceptance of message content (see col. 11, lines 13-20).

As per claim 63, Ozzie discloses the method executed by the computer-executable instructions of claim 61, further comprising generating a user interface having at least one real time chat channel which includes at least one contextual chat message (see col. 6, lines 36-44 and col. 12, line 62 to col. 13, line 8).

As per claims 64-65, Ozzie disclose the method executed by the computer-executable instructions of claim 63, further comprising docking the real time chat channel to the user interface (see fig. 2 and col. 10, lines 21-45).

As per claim 68, Ozzie discloses the method executed by the computer-executable instructions of claim 61, further comprising generating a structured message output

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panel to display received structured message content (see fig. 3 and col. 10, lines 56 to col. 11, line 12).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 18-20, 27, 44-46, 57 and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ozzie as applied to claim 1 above, and further in view of Payne et al., U.S. Patent No. 6,735,614[hereinafter Payne].

As per claims 18-20, 44-46, 57 and 66 Ozzie discloses substantial features of the claimed invention as discussed above with respect to claim.

Ozzie is silent regarding:

wherein the end user interface program generates at least one user interface message alert for a real time chat channel.

Payne discloses a system for alerting or notifying users for received message, wherein end user interface program generates at least one user interface message alert for a real time chat channel (i.e., appropriate visual and/or audio alert) (see the abstract).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to incorporate the teaching of Payne into Ozzie's system such that the user is then given the opportunity to respond to the message, thereby making it possible not miss important messages.

9. Claims 22, 48, 58, 67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ozzie in view of Cave et al., U.S. Patent No. 6,404,746[hereinafter Cave].

As per claim 22, 48, 58, 67, Ozzie discloses substantial features of the claimed invention as discussed above.

Ozzie is silent regarding wherein the system management program converts synchronous message content to asynchronous message content for storage.

Cave discloses a communications system including a management gateway system, which converts synchronous message content to asynchronous message content for storage (see col. 6, Lines 10-22 and col. 10, 25-42). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to incorporate the teaching of Cave into Ozzie's system because the advantage of converting

synchronous message content to asynchronous message content for storage is that provides enhanced multimedia communication.

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Salad E Abdullahi whose telephone number is 571-.

The examiner can normally be reached on 8:30 - 5:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached

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571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Abdullahi Salad
4/2/2006


ABDULLAHISALAD
PRIMARY EXAMINER